# STATE OF MICHIGAN

# COURT OF APPEALS

DEPARTMENT OF TRANSPORTATION,

Plaintiff-Appellant,

v

KEVIN J. WILSON and CYNTHIA F. WILSON,

Defendants-Appellees,

and

PRUDENTIAL HOME MORTGAGE COMPANY, WASHINGTON MUTUAL BANK, CLARKSTON STATE BANK and US BANK NA,

Defendants.

UNPUBLISHED
July 9, 2009

No. 282763
Lapeer Circuit Court
LC No. 05-036519-CC

Before: Borrello, P.J., and Meter and Stephens, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's December 3, 2007 order awarding defendant $37,564.87 in attorney fees. In this condemnation case, appellees received $150,000 for the taking of the property and $37,564.87 in attorney fees and costs. Prior to filing the claim of appeal, the Department of Transportation paid the attorney fees. Appellant contends that payment was a bureaucratic mistake and they are entitled to relief based on the trial court's erroneous basis for its award of attorney fees. Despite our concerns with the trial court's holding, because the order has been satisfied, we dismiss plaintiff's appeal as moot.

"An issue is moot if an event has occurred that renders it impossible for the court, if it should decide in favor of the party, to grant relief[,]" *City of Jackson v Thompson-McCully Co, LLC*, 239 Mich App 482, 493; 608 NW2d 531 (2000), or "when it presents only abstract questions of law that do not rest upon existing facts or rights[,]" *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998). "A reviewing court will not reach moot issues or declare principles or rules of law that have no practical effect on the case before it 'unless the issue is one of public significance that is likely to recur, yet evade judicial review.'" *Dep't of Ed v Grosse Pointe Pub Schools*, 266 Mich App 258, 266; 701 NW2d 195 (2005), vacated by 474 Mich 1117 (2006), quoting *Federated Publications, Inc v Lansing*, 467 Mich 98, 112; 649 NW2d 383 (2002). "The general rule states that a satisfaction of judgment is the end of proceedings and

bars any further efforts to alter or amend the final judgment." *Becker v Halliday*, 218 Mich App 576, 578; 554 NW2d 67 (1996). Indeed, this Court has stated that "a party who accepts satisfaction in whole or in part waives the right to maintain an appeal or seek review of the judgment for error, as long as the appeal or review might result in putting at issue the right to relief already received." *Id*. And this reasoning applies with equal force to the satisfaction of the judgment as it does to acceptance of the satisfaction of judgment. See *Horowitz v Rott*, 235 Mich 369, 372; 209 NW 131 (1926) (satisfaction of judgment bars appeal); *Grand Valley Health Center v Amerisure Ins Co*, 262 Mich App 10, 28; 684 NW2d 391 (2004).

Under this general rule, we conclude that plaintiff's appeal is moot. Plaintiff completely satisfied the order entered in defendants' favor. Once the order was entered, plaintiff could either seek review in this Court of the order or satisfy the judgment. Plaintiff could not do both. *Horowitz, supra* at 372. And "[w]hen the [order] was satisfied the case was at an end." *Id*.

Plaintiff argues that a different result should be obtained in this case because the order was paid by mistake. To support its argument, plaintiff refers this Court to *Wilson v Newman*, 463 Mich 435, 441; 617 NW2d 318 (2000) and *Pingree v Mut Gas Co*, 107 Mich 156; 65 NW 6 (1895). However, in *Wilson*, the third-party that mistakenly paid the judgment was compelled to do so by a writ of garnishment, so it was not a voluntary satisfaction situation. *Wilson*, *supra* at 437-438. And *Pingree* does not deal with a satisfaction of judgment. Rather, in *Pingree*, the plaintiffs were trying to recoup the overpayment of their gas bills. *Pingree*, *supra* at 156. Our Supreme Court concluded that money paid under a mistake of material facts may be recovered back, although there was negligence on the part of the person making the payment. *Id*. at 160. Plaintiff failed to present any evidence of negligence in this action. Therefore, we find that *Wilson* and *Pingree* are inapplicable to plaintiff's claim. Therefore, plaintiff has failed to cite to this Court any precedent which would allow for the relief it has requested.

Accordingly, plaintiff's appeal is dismissed as moot.

/s/ Stephen L. Borrello
/s/ Patrick M. Meter
/s/ Cynthia Diane Stephens